



STATE BOARD OF EQUALIZATION

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Executive Secretary
No. 82/10

January 22, 1982

TO COUNTY ASSESSORS:

OPEN-SPACE STATUTES - CANCELLATION FEES AND CHARGES

Questions have been raised concerning the procedure to be used in determining the penalties and fees imposed when open-space contracts are cancelled. The purpose of this letter is to review the applicable code sections, redefine the basic terminology and demonstrate the correct methods of calculating the cancellation fee and the possible deferred tax charge.

One question concerns the effect of the change to a 100 percent assessment ratio upon the calculation of the fees and charges. Revenue and Taxation Code Section 135 was enacted in 1978 to allow comparison of assessed values and tax ratios for different years. Subsection (c) states:

"(c) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis and the same amount of tax revenues would be produced or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized."

Therefore all assessed values and tax rates used in the calculation of charges will be based upon a 100 percent assessment ratio.

Prior to the cancellation of an open-space contract the assessor is required to determine a cancellation value of the subject property for the purpose of determining a cancellation fee. In accordance with current law, this cancellation value is the taxable value as defined in Board Rule 460. This taxable value is the factored base year value of the property as if unrestricted or the current full cash value of the property as if unrestricted, whichever is less. The fee is 12 1/2 percent of the cancellation value. (Government Code Section 51283.)

In addition to the fee prescribed in Section 51283, Section 51283.1 requires the calculation of a deferred tax charge which, in some instances, may result in the collection of a supplemental fee. To determine the amount (if any) of this supplementary fee, the assessor

must establish four different values which, under current law, are defined as follows:

- (1) "The unrestricted assessed value,..." This value is the factored base year (Rule 460) full cash value as if unrestricted or the current full cash value as if unrestricted, whichever is less.
- (2) "The current restricted assessed value,..." This is the value determined in accordance with Section 423 of the Revenue and Taxation Code. (The lesser of the currently computed restricted value and the factored base year (Proposition 13) value as if unrestricted.)
- (3) "The base year unrestricted assessed value,..." In this context the term 'base year' is not the same as the base year defined in Board Rule 460. For contracts in existence for 10 years or less, this value is the assessed value for the year prior to the initiation of the enforceable restriction. For contracts in existence for more than 10 years, this value is calculated by interpolation as prescribed in Section 51283.1(a)(3)(B).
- (4) "The base year restricted assessed value,..." As in (3) above, the term 'base year' is not the same as the base year defined in Board Rule 460. For contracts in existence for 10 years or less, this value is the assessed value for the first year of the enforceable restriction. For contracts in existence for more than 10 years, this value is calculated by interpolation as prescribed in Section 51283.1(a)(4)(B).

Example of Cancellation Fee and Deferred Tax Charge Calculation When the Contract has been in Existence 10 Years or Less.

The assessor has determined the following rate and values for the subject property.

Current Tax Rate	.01125
Article XIIIIA Base Year Value (1975)	\$300,000
Factored Base Year Value (1981)	$\$300,000 \times 1.12616 = \$337,848$
Current Full Cash Value	\$500,000

Government Code Section 51283.1(a) values:

- (1) The unrestricted assessed value \$337,848
- (2) Current restricted assessed value \$200,000
- (3) The base year unrestricted assessed value \$150,000
((A) Assessed value for the first year prior to the initiation of the restriction (1972))
- (4) The base year restricted assessed value \$100,000
((A) Assessed value for the first year of the enforceable restriction (1973))

THE CANCELLATION FEE AS PER GOVERNMENT CODE SECTION 51283:

Cancellation Value of $\$337,848 \times 12 \frac{1}{2}\% = \$42,231$

COMPUTATION OF THE DEFERRED TAX CHARGE:

Subtract the current restricted assessed value⁽²⁾ from the unrestricted assessed value⁽¹⁾.

$$\$337,848 - \$200,000 = \$137,848$$

Subtract the base-year restricted assessed value⁽⁴⁾ from the base-year unrestricted assessed value⁽³⁾.

$$\$150,000 - \$100,000 = \$50,000$$

Average the figures determined above.

$$\$137,848 + \$50,000 = \$187,848 \div 2 = \$93,924 \text{ average assessed value}$$

Multiply the average assessed value by the current tax rate. This tax rate shall be equal to that used in determining the value of the land as prescribed in paragraph (3) of subdivision (b) of Section 423 of the Revenue and Taxation Code.

$$93,924 \times .01125 = \$1,056.65$$

Multiply this amount by a factor from the following table:

<u>Year</u>	<u>Factor</u>
1.....	1.06000
2.....	2.18360
3.....	3.37462
4.....	4.63709
5.....	5.97332
6.....	7.39384
7.....	8.89747
8.....	10.49132
9.....	12.18080
10.....	13.97164

$$\$1,056.65 \times 12.18080 = \$12,870.84$$

From this amount subtract the amount of the previously determined cancellation.

$$\$12,870.84 - \$42,231.00 = \$-29,360.16$$

In this instance there is no additional deferred tax charge because the answer is a negative number.

Variation in the calculations when the contract has been in force more than 10 years.

When the contract has been in force more than 10 years the "base year unrestricted assessed value" (3) and the "base year restricted assessed value" (4) are determined in a different manner. For example, assume the same facts as in the previous example except the property was enforceably restricted in 1967. The assessed value on the 1966 lien date was \$125,000 and the assessed value for the first year of the enforceable restriction (1967) was \$90,000.

To determine the "base year unrestricted assessed value (3):

Step (1) Determine the difference between the assessed value in the year prior to the initiation of the contract (\$125,000) and the current unrestricted assessed value (\$337,848).

$$\$337,848 - \$125,000 = \$212,848$$

Step (2) Determine the total time period between the year of application for cancellation and the year prior to origination of the contract and find what percentage 10 years is of the total term.

$$1981 - 1966 = 15 \text{ years}$$

$$10/15 = 67\%$$

Step (3) Apply this percentage to the difference arrived at in step (1).

$$\$212,848 \times 67\% = \$142,608$$

Step (4) Deduct the amount in step 3 from the current unrestricted assessed value.

$$\$337,848 - \$142,608 = \underline{\underline{\$195,240}}$$

\$195,240 is the "base year unrestricted assessed value" called for in (a)(3)(B) of the Government Code Section 51283.1.

To determine the "base year restricted assessed value" (4):

Step (1) Determine the difference between the assessed value in the first year of restriction (\$90,000) and the current restricted value (200,000).

$$\$200,000 - \$90,000 = \$110,000$$

Step (2) Determine the total time period between the year of application for cancellation and the first year the property was restricted and determine what percentage 10 years is of the total term.

$$1981 - 1967 = 14 \text{ years}$$

$$10/14 = 71\%$$

Step (3) Apply this percentage to difference arrived at in step (1).

$$\$110,000 \times .71 = \$78,100$$

Step (4) Deduct the amount in step 3 from the current restricted value.

$$\$200,000 - \$78,100 = \$121,900$$

Once (3) and (4) are determined, the deferred tax charge is calculated in the manner demonstrated in the first example.

It has been our experience that the deferred tax charge is typically a negative figure and therefore the cancellation fee is the only appropriate charge for cancellation.

TO COUNTY ASSESSORS

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January 22, 1982

I hope that this information is helpful to you. If you have any further questions, please contact Mr. Bill McKay at (916) 445-4982.

Sincerely,

A handwritten signature in cursive script that reads "Verne Walton".

Verne Walton, Chief
Assessment Standards Division

VW:ebv
AL-05-1193A



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DOUGLAS D. BELL

Executive Secretary

No. 82/65

April 23, 1982

TO COUNTY ASSESSORS:

OPEN SPACE CANCELLATION FEES

We have had several questions concerning Assessors' Letter 82/10, Open-Space Statutes-Cancellation Fees and Charges. The letter implies that the cancellation penalty is always 12 1/2 percent of the "cancellation value" which is the lower of factored base year value and the current full cash value. In response to several questions, we have reviewed Section 51240 of the Government Code which says:

"...a contract may provide for restrictions, terms, and conditions, including payments and fees, more restrictive than or in addition to those required by this chapter."

This leads us to the conclusion that a city or county may, by the terms of a Land Conservation Act contract, require payments or fees that exceed 12 1/2 percent of the cancellation value. For example, if a contract specified that the current full cash value was to be used for computing the fee and it exceeded the factored base year value, current full cash value would be used for the computation.

It was also pointed out that our letter failed to mention the fact that Section 51283.1, dealing with the payment of deferred taxes, was not in effect until January 1, 1979. This section is not applicable to contracts entered into prior to this date.

I hope that this information is helpful to you. If you have any questions, please contact our Technical Services Section at (916) 445-4982.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:hlo
AL-08-1326A